

TITLE 6
ACTIONS IN PARTICULAR CASES

CHAPTER 35
IDAHO WRONGFUL CONVICTION ACT

6-3501. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Wrongful Conviction Act."

[6-3501, added 2021, ch. 17, sec. 1, p. 38.]

6-3502. CLAIM OF COMPENSATION FOR WRONGFUL CONVICTION. (1) As used in this chapter, "claimant" means a person convicted and subsequently imprisoned for one (1) or more crimes that such person did not commit.

(2) If he meets the requirements of this chapter, a claimant may bring a civil action against the state of Idaho for wrongful conviction. The claimant shall prevail if he establishes each of the following requirements by a preponderance of the evidence:

- (a) The claimant was convicted of a felony in this state and subsequently imprisoned;
- (b) The claimant did not commit the crime for which he was convicted;
- (c) The claimant did not commit the acts that were the basis of the conviction;
- (d) The claimant did not aid, abet, or act as an accomplice or accessory to either the acts or to a person who committed the acts that were the basis for the conviction;
- (e) The claimant did not commit an included offense of the crime for which he was imprisoned;
- (f) The claimant establishes that his conviction was reversed or vacated and either:
 - (i) The claimant was not retried and the charges were dismissed; or
 - (ii) The claimant was retried and was found not guilty; and
- (g) The claimant establishes that the basis for reversing or vacating the conviction was not legal error unrelated to his factual innocence.

(3) A claimant shall not prevail on a claim brought pursuant to this chapter if the state shows by a preponderance of the evidence that a claimant pled guilty with the specific intent to protect another party from prosecution for the underlying conviction that forms the basis for the claim.

(4) (a) A claimant convicted, imprisoned, and released from custody on or after the effective date of this chapter shall commence an action under this section within a period of two (2) years after:

- (i) The conviction was reversed or vacated and the charges were dismissed; or
- (ii) The claimant was retried and found not guilty.

(b) A claimant convicted, imprisoned, and released from custody before the effective date of this chapter must commence an action under this section within two (2) years of the effective date of this chapter.

(5) A claimant shall be entitled to a hearing in district court as expeditiously as possible after the filing of a claim.

(6) If a person dies prior to filing or during the pendency of a claim under this section, the person's estate may file or maintain a claim pursuant to this section.

(7) All provisions of existing law relating to absolute or qualified immunity shall apply to an action brought pursuant to the provisions of this section.

[6-3502, added 2021, ch. 17, sec. 1, p. 38.]

6-3503. COMPENSATION. (1) In an action brought pursuant to section [6-3502](#), Idaho Code, damages awarded shall be:

(a) (i) Sixty-two thousand dollars (\$62,000) for each year of imprisonment actually served, including time spent awaiting trial; or

(ii) If the claimant was imprisoned on death row, seventy-five thousand dollars (\$75,000) for each year of imprisonment actually served related to the charge giving rise to death row imprisonment, including time spent awaiting trial; and

(b) No less than twenty-five thousand dollars (\$25,000) for each year the person was on parole or no less than twenty-five thousand dollars (\$25,000) for each year the person was required to register as a sex offender, whichever period of time was greater.

(2) Compensation awarded under subsection (1) of this section shall be computed on a pro rata basis, with damages computed according to the number of days the claimant spent awaiting trial and was imprisoned, on parole, or required to register as a sex offender due to the conviction that is the subject of the action. For purposes of the pro rata calculation, three hundred sixty-five (365) days equals one (1) year. The burden is on the claimant to establish the number of days he was imprisoned, on parole, or required to register as a sex offender.

(3) The claimant must establish the damages he is seeking under subsections (1), (2), and (4) of this section and the basis for those damages. Awards shall be paid from the innocence fund created pursuant to section [6-3505](#), Idaho Code. Any award of damages shall not accrue post-judgment interest, and the provisions of section [28-22-104](#), Idaho Code, shall not apply to such damages. A court shall not award, and a claimant shall not receive, compensation for any period of imprisonment during which the claimant was serving a sentence for a conviction of another offense for which the claimant was lawfully convicted and imprisoned. The claimant shall not receive compensation for any period of time that he was on parole or required to register as a sex offender during which the claimant was paroled or required to register as a sex offender for another offense for which the claimant was lawfully convicted.

(4) In addition to the damages awarded pursuant to subsection (1) of this section, the claimant may be entitled to the following:

(a) Reasonable attorney's fees and costs incurred in the action brought pursuant to this chapter not to exceed a total of twenty-five thousand dollars (\$25,000), unless a greater reasonable total is authorized by the court upon a finding of good cause shown; and

(b) Reentry services offered through the department of correction, as applicable.

(5) If a claimant in a separate civil action related to the wrongful conviction has won a monetary judgment against, or entered into a settlement agreement with, the state or any political subdivision, the amount of any such award or settlement collected by the claimant, less attorney's fees and litigation costs, shall be deducted from the sum of money to which the claimant is entitled to under this section. If a claimant first receives

compensation under this section and then in a separate civil action wins a monetary judgment against, or enters into a settlement agreement with, the state or any political subdivision related to the wrongful conviction, the claimant shall reimburse the state. The reimbursement shall be for the sum of the monetary payment awarded under this section, less attorney's fees and litigation costs, up to the amount of the award or settlement in the civil action. If a claimant first receives compensation under this section and then in a separate civil action related to the wrongful conviction wins a monetary judgment against, or enters into a settlement agreement with, the state or any political subdivision, the claimant shall notify and reimburse the state of such compensation.

(6) Any damages awarded pursuant to subsection (1) of this section shall be tax-exempt in the state of Idaho.

[6-3503, added 2021, ch. 17, sec. 1, p. 39; am. 2021, ch. 304, sec. 1, p. 910.]

6-3504. CERTIFICATE OF INNOCENCE. If the court finds that the claimant is entitled to a judgment pursuant to section [6-3502](#), Idaho Code, it shall enter a certificate of innocence finding that the claimant was innocent of all crimes for which the claimant was mistakenly convicted.

[6-3504, added 2021, ch. 17, sec. 1, p. 40.]

6-3505. INNOCENCE FUND CREATED. There is hereby created in the state treasury the innocence fund. The fund shall consist of moneys that may be provided by legislative appropriation and any reimbursements made to the state by claimants. The state treasurer shall invest the idle moneys of the fund, and the interest earned on such investments shall be retained by the fund. Moneys in the fund are continuously appropriated to be used solely for carrying out the provisions of this chapter.

[6-3505, added 2021, ch. 17, sec. 1, p. 40.]